REMARKS/ARGUMENTS

Claims 1-19 are pending. Claims 1-8, 11-14, and 17 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,272,337 to Mount et al. in view of U.S. Patent Application Publication 2002/0025812 to Ahlstrand et al. Claims 9-10 and 15-16 were rejected as being unpatentable over Mount and Ahlstrand, and further in view of U.S. Patent Application Publication 2003/0028643 to Nelson, Jr. et al.

Response to Rejections Under 35 U.S.C. 103(a)

Claim 1 recites a method comprising three steps, namely, (1) transmitting a predetermined data pattern from a test apparatus to the mobile telephone terminal on a downlink, (2) the terminal receiving the predetermined data pattern and responding by transmitting an access request on an uplink to the test apparatus, and (3) the test apparatus receiving the access request and analyzing the access request to assess the performance of *the terminal* based upon *assessment of the access request alone*. The method of Claim 1 thus is simple in that the test apparatus analyzes the access request alone to assess the performance of the terminal, and does not need to engage in an exchange of messages in response to the access request in order to analyze the performance of the terminal. The method of Claim 1 requires only that the terminal issue an access request, and the test apparatus analyze the access request. Further exchanges between the test apparatus and terminal are unnecessary.

The test apparatus of independent Claim 11, similarly, is structured and arranged to transmit a predetermined data pattern on a downlink to prompt a response from the terminal in the form of an access request on an uplink, the test apparatus being structured and arranged to analyze the access request and produce a test result based upon assessment of the access request alone.

The test apparatus of independent Claim 17 is also similar in that it comprises a memory to store a predetermined data pattern and a transmitter to transmit the predetermined data pattern

on a downlink to the mobile telephone terminal in order to prompt a response from the mobile

telephone terminal in the form of an access request on an uplink to the test apparatus, a receiver

to receive the access request on the uplink from the terminal, and a processor to analyze the

access request and produce an assessment of the performance of the terminal based upon

assessment of the access request alone.

Independent Claims 18 and 19 also share the feature that performance of the mobile

terminal is assessed based on analysis of the access request alone.

The Office Action asserted that Mount teaches testing a mobile telephone terminal, and

specifically teaches steps of: transmitting from the test apparatus to the terminal on a downlink a

predetermined data pattern that the terminal recognizes and prompts the terminal to transmit an

access request on an uplink; and the terminal receiving the predetermined data pattern and

responding by transmitting an access request to the test apparatus on the uplink. The Office

Action acknowledged that Mount fails to teach or suggest that the test apparatus analyzes the

access request to assess the performance of the terminal based upon assessment of the access

request alone. However, the Office Action asserted that Ahlstrand teaches (in paragraphs 0065-

0067) this aspect of the present claims, and that it would have been obvious to modify Mount to

include it. For the reasons explained below, Applicant respectfully submits that the rejections

are erroneous.

Mount does not relate to a system for testing mobile telephone terminals. Rather,

Mount's objective is to test *other components* of a mobile communications system, primarily the

mobile switching center (MSC) and the base system controllers (BSC)—see col. 3, line 14+.

Mount's development is focused on simulating physical movement of mobile units from one cell

to another, rather than having to actually move the mobile units over the large distances between

cells (col. 1 line 55 to col. 2 line 7). Mount states that this can be accomplished even when the

mobile units are hard-wired to the attenuator matrix **16** that performs the simulation (see

embodiment of Fig. 1B, and col. 3, lines 41-63). Mount says that:

"By increasing the number of mobile units **14** in the mobile simulation system **10**, the performance threshold of the mobile communications systems **26** (including the MSC **22** and BSC **20**) can be tested, including its ability to handle large numbers of access requests and maximum concurrent calls. Further, large numbers of mobile units **14** may be controlled to have different movement patterns in a multi-hour test session to simulate actual traffic conditions. Thus, a wireless test systems that includes real mobile units is provided to more accurately test a mobile communications system." (Col. 4 line 63 to col. 5 line 6.)

Thus, it is apparent that Mount does not care about, nor does he teach, any method for testing performance of the mobile telephone units themselves.

Moreover, Ahlstrand provides no teaching or suggestion that would have led a person of ordinary skill in the art to modify Mount's testing system to correspond to the presently claimed system and method.

Ahlstrand relates to methods for managing access requests in a mobile communication system. In particular, Ahlstrand relates to methods that employ a standard 8-bit access request identifier (ARI) that is assigned to a mobile telephone terminal by the mobile communication system. The Office Action cites paragraphs 0065 through 0067 as allegedly teaching a test apparatus that analyzes an access request to assess the performance of the terminal based upon assessment of the access request alone. Applicant respectfully submits that the cited paragraphs do not teach this aspect of the present claims.

The cited passage of Ahlstrand actually has to do with various techniques that the radio network may employ in deciding whether to assign an ARI to a given mobile terminal, and for how long the ARI should remain assigned to the terminal. Ahlstrand indicates that these decisions can be made by the radio network based on (1) the amount of data that the mobile station has transmitted recently (para. 0065), and/or (2) the mobility characteristics of the terminal, i.e., whether it is stationary or roaming (para. 0066). For instance, the ARI may remain assigned to the mobile station for a long period of time if the mobile station has transmitted a lot

of data recently, since it is then likely that it will continue to transmit more data (para. 0065). Additionally, the ARI may remain assigned to the mobile station for a long time if the mobile station has been stationary (para. 0066).

Alternatively, the radio network may assess the equipment characteristics of the terminal in making such decisions. For example, a mobile station in the form of a network card attached to a computer may be expected to be stationary and transmit and receive data interactively for a long period of time. Accordingly, the radio network may assign an ARI to such a mobile station for a long period of time (para. 0067).

However, there is nothing in these paragraphs indicating that the assessment of the amount of data transmitted, or the assessment of the mobility or equipment characteristics of the mobile terminal, is made solely on the basis of an assessment of an access request transmitted by the mobile terminal. Indeed, since a transmission of an access request is a one-time event at the beginning of a given session of data transmission, it is not seen how the radio network could determine how much data the mobile terminal has transmitted recently, or whether the mobile terminal is stationary or roaming, based solely on an assessment of the access request. Ahlstrand certainly does not teach any such thing. In any event, these characteristics of a given mobile terminal do not constitute *performance* characteristics of the terminal, but rather relate to the usage environment. By definition, "performance" is something that can be rated as either "acceptable" or "unacceptable" (with various gradations therebetween, in some cases). Thus, it would be nonsensical to take the position that mobility and equipment characteristics indicate the *performance* of the mobile terminal, because it cannot be said that it is "acceptable" or "unacceptable" for the mobile terminal to be stationary or to be roaming, or to have certain equipment characteristics. These things are not "performance" indicators, but are merely facts or characteristics that exist.

Furthermore, as Ahlstrand describes in paragraphs 0037 through 0039, the Universal Mobile Telecommunications System has four proposed QoS classes (conversational, streaming, interactive, and background) that differ in terms of their sensitivity to delay of the traffic.

Ahlstrand explains that the ARI contains information about the class of terminal. "Thus the mobile station does not need to retransmit data defining its access capabilities and the requested uplink resources" (para. 0039). However, the information in the ARI is not the *performance* of the terminal; rather, it merely indicates the *capabilities* of the terminal and the QoS class. The QoS class determines the resources required by the terminal, but has nothing to do with the performance of the terminal.

In summary, Applicant cannot find anything in Ahlstrand that would have taught or suggested a modification of Mount's system and method to include a test apparatus receiving the access request and analyzing the access request to assess the performance of the terminal based upon assessment of the access request alone. Therefore, even if Mount and Ahlstrand were to have been combined (and Applicant does not admit it would have been obvious to do so), the combination still fails to teach this important aspect of all of the present independent claims.

For these reasons, Applicant respectfully submits that all of the pending claims are patentable over Mount and Ahlstrand.
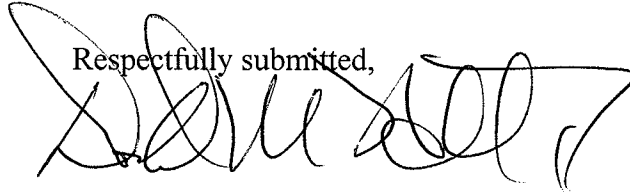
Conclusion

Based on the above remarks, it is submitted the application is in condition for allowance.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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